

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

CRISTHIAN HERRERA CARDENAS, )  
*et al.*, )

Plaintiffs, )

v. )

Case No. 1:22-cv-00801-TWP-DML

U.S. IMMIGRATION AND CUSTOMS )  
ENFORCEMENT (ICE), *et al.*, )

Defendants. )

**MOTION TO TRANSFER DIVISION**

Defendants, Clay County, Indiana, the Clay County Council, the Clay County Board of Commissioners, the Clay County Jail, the Clay County Sheriff’s Office, Paul B. Harden, in his official capacity as Clay County Sheriff, Jackie Mitchell, Jason Britton, Jason Thomas, Larry J. Moss, John Nicoson, Dave Amerman, and Patricia Heffner, all in their official capacity as Clay County Council Members, Bryan Allender and Marty Heffner, in their official capacity as Clay County Commissioners, Paul Sindors, in his official capacity as President of the Clay County Board of Commissioners, Elizabeth Hughett, David Parker, and Jase Glassburn, in their official capacity as Clay County Sergeants and ICE Contract Coordinators, Jennifer M. Flater, in her official capacity as Clay County Auditor, and Debra James, in her official capacity as Clay County Treasurer (collectively, the “Clay County Defendants”), by counsel, respectfully move for a division transfer pursuant to 28 U.S.C. § 1404, and in support, state as follows:

1. This case was filed in the wrong division. It was filed in the Indianapolis Division; it should have been filed in the Terre Haute division.
2. Plaintiffs allege that the “Plaintiffs and other Class members are being held” at the

Clay County Jail, which “is located at 611 East Jackson Street, Brazil, Indiana 47834.” ([ECF No. 1](#) ¶ 27.) Clay County, Indiana, where Brazil, Indiana is located, is in the Southern District of Indiana, Terre Haute Division (the “Terre Haute Division”). *See* 28 U.S.C. 94(b)(2). Each of the Clay County Defendants is alleged to be located in Clay County, Indiana, or is sued in their official capacity for a positions in Clay County, Indiana. ([ECF No. 1](#) ¶¶ 50-60.) The jail conditions, jail inspection, and Clay County funding decisions that Plaintiffs challenge in the Complaint are all alleged to have occurred in Clay County, Indiana. ([ECF No. 1](#) pp.23-45, 51-61.) In other words, the center of this dispute is in the Terre Haute division.

3. Further, this Court’s Electronic Civil Case Opening Procedures provide that when a case is filed, the plaintiff is required to “[s]elect the divisional office in which the case is being filed.” The procedures make clear that choosing the correct division is important and choosing the wrong division will require the case to be transferred:

**IMPORTANT:** Please select the office carefully, as an error will cause the case to be assigned to the incorrect division, which will require transfer and reassignment of the case.

4. The venue provision in 28 U.S.C. § 1404(b) states that “[u]pon motion, . . . any action, suit, or proceeding of a civil nature . . . may be transferred, in the discretion of the court, from the division in which pending to any other division in the same district.”<sup>1</sup> Pursuant to that statutory provision and this Court’s electronic filing procedures, the Clay County Defendants respectfully request that this Court transfer this matter to the Terre Haute Division and that the Court take all necessary and appropriate steps to effectuate that transfer of division.

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<sup>1</sup> 28 U.S.C. § 1406(a) similarly provides that “The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or in the interest of justice, transfer such case to any district or division in which it could have been brought.”

5. Counsel for the plaintiffs object to the requested relief and intend to file a response.

6. Counsel for the federal government defendants take no position concerning the requested relief.

WHEREFORE, the Clay County Defendants, by counsel, respectfully request that this Court transfer this matter to the District Court for the Southern District of Indiana, Terre Haute Division and take all necessary and appropriate steps to effectuate the transfer.

Respectfully submitted,

/s/ Andrew M. McNeil

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 24, 2022, a copy of the foregoing was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the court's electronic filing system. Parties may access this filing through the court's system.

/s/Andrew M. McNeil

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